

## Allowing subsequent writs of habeas corpus for a time-served credit error

HB 32 by Hodge (Deuell)

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DIGEST:	HB 32 would have allowed a criminal defendant to make a second or subsequent application for a writ of habeas corpus, a type of appeal, if the application was based solely on a claim of an error in the calculation of the defendant's time served, which is used to determine parole eligibility. Writs of habeas corpus are used to challenge criminal convictions by raising issues outside of the trial record and generally are limited to one per conviction, unless specific conditions outlined in Code of Criminal Procedure, art. 11.07 exist.
GOVERNOR'S REASON FOR VETO:	"House Bill No. 32 would allow inmates to file an unlimited number of applications for a writ of habeas corpus when complaining about time credits on their sentences. That is a waste of time in the trial and appellate courts of this state. Current law allows a subsequent application when an inmate produces facts that could not have been previously presented."
RESPONSE:	<p>Rep. Terri Hodge, the bill's author, said: "I was surprised at the veto, since there was no opposition to this bill from any group. This legislation addressed an important failure in our criminal justice system — the chance for error when time served behind bars is calculated.</p> <p>"The veto proclamation misstates an inmate's options. The Texas Court of Criminal Appeals, in <i>Ex parte Whiteside</i>, explicitly denies an inmate the chance to address a time credit dispute if the inmate had first filed a writ challenging his or her conviction.</p> <p>"There is no way that an individual could predict a clerical error might happen years in the future, so it is absurd to expect everyone to postpone their right to appeal their conviction in case a calculation error ever occurs. Furthermore, errors do occur — for example, my office is aware of one individual who will be serving 50 years instead of 10 years at taxpayer expense, due to an typo on a court document.</p> <p>"The state of Texas needs this law enacted, and I intend to continue working for its passage."</p> <p>Sen. Bob Deuell, the Senate sponsor, had no comment.</p>
NOTES:	HB 32 was analyzed in the April 2 <i>Daily Floor Report</i> .